

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **VICE CHAIRMAN RIC HOLDEN**, on April 12, 2001 at 1:05 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Bob DePratu (R)
Sen. Dan Harrington (D)
Sen. Sam Kitzenberg (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Marion Mood, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJ 37, 4/9/2001
HJ 36, 4/9/2001

Executive Action: HJ 37
HJ 36

HEARING ON HJ 37

Sponsor: REP. JEFF PATTISON, HD 95, GLASGOW

Proponents: Col. Bert Obert, DOJ/MT Highway Patrol
Kevin Ireland, self
Harry Simons, self

Opponents: None

Opening Statement by Sponsor:

REP. JEFF PATTISON, HD 95, GLASGOW, opened by saying this bill was precipitated by the death of a friend who was struck by a car while riding his bicycle, and it asked that an interim committee be designated to study bicycle safety. He stated that Highway 2 receives an abundance of traffic, including bicycle clubs, and he wanted develop safety measures and training programs so that tragedies like this could be prevented. After failed attempts to introduce other bicycle legislation, HB 212 and HB 611, he conferred with the highway department, highway patrol, and interested groups and decided on this resolution so the issue could be studied. He submitted **EXHIBIT(his83a01)**, a letter that addressed the reasons behind HB 212.

Proponents' Testimony:

Col. Bert Obert, DOJ/ MT Highway Patrol, stated that he had met many times with the sponsor in helping craft this bill because he agreed that something needed to be done to improve bicycle safety. He told the committee how bicycle traffic was increasing steadily, with club tours and races on the rise, also. There were a host of issues to be worked on, from highway design issues to reflective clothing and bicycle equipment such as lights and reflectors.

Kevin Ireland, self, concurred with previous testimony, adding that he did not like bicycles on the highways, and submitted **EXHIBIT(his83a02)**, his written testimony.

Harry Simons, self, also agreed with the necessity of safety features and handed in written testimony, **EXHIBIT(his83a03)**.

Note: Kevin and Harry were part of a Boy Scout group from Missoula who had come to the Capitol to testify on both HJ 37 and HJ 36.

Closing by Sponsor:

REP. JEFF PATTISON closed on HJ 37, adding that driver education should be included in the study.

Note: **EXHIBIT**(his83a04) was submitted to the secretary after the meeting.

EXECUTIVE ACTION ON HJ 37

Motion/Vote: **SEN. KITZENBERG** moved that **HJ 37 BE ADOPTED**. Motion carried 9-0, with **SEN. MOHL** voting aye by proxy. **SEN. DALE BERRY** agreed to carry HJ 37 on the Senate floor.

HEARING ON HJ 36

Sponsor: **REP. SYLVIA BOOKOUT-REINICKE, HD 71, ALBERTON**

Proponents: **Steven Fredericks, self**
Col. Bert Obert, DOJ/MT Highway Patrol
Ben Richards, self
Daniel Gocchi, self

Opponents: **Jerry Driscoll, for Russ Ritter, Montana Rail Link**

Opening Statement by Sponsor:

REP. SYLVIA BOOKOUT-REINICKE, HD 71, ALBERTON, opened by saying because of the train spill near Alberton six years ago, she and some of her constituents had become very aware of rail safety as well as highway safety with regards to the transportation of hazardous materials, including nuclear waste; this was the reason behind HJ 36, so an interim study group could explore general safety measures. She was aware that Washington Corp. had received the contract to clean up the sites at Hanford and Chernobyl, Russia, and that this corporation was also involved in the temporary holding facility in Idaho, called INEEL, which would serve in that capacity until the Yucca Mountain site was completed in 2010. She told the committee that the U.S. Department of Energy required nuclear waste to be held in this country because of safety reasons. The DOE had not yet issued a transportation policy which allowed for input and studies such as the one proposed here. She believed that the DOE would chose a route through the least populated areas which would mean Montana. She told of 25 other states issuing permits and ordering inspections of those transports, or requiring escorts.

Proponents' Testimony:

Steven Fredericks, self, felt methods of transporting nuclear waste and other harmful substances through our state needed to be studied, and submitted his written testimony, **EXHIBIT(his83a05)**.

Col. Bert Obert, DOJ/MT Highway Patrol, stood in support of this resolution. He recalled an incident a number of years ago at a weigh station outside of Butte, where a truck hauling electrical transformers was stopped. The transformers which contain PCB's started leaking oil, and he stated that this was life threatening and especially dangerous for the emergency responders because nobody knew about the danger at the time. Moreover, people were just not aware of these kinds of transports, and it was a matter of time before someone was seriously hurt or even killed if something went wrong with the transport. He did not think that every transport should be publicized because of the potential danger of sabotage, but the people who would be threatened by it should have at least some knowledge beforehand.

Ben Richards, self, also submitted written testimony, **EXHIBIT(his83a06)**.

Daniel Gocchi, self, told how CFC's had escaped from their car's air conditioning system which had really illustrated the danger of hazardous materials to him, and he felt this study was needed.

Note: **Steven, Ben** and **Daniel** also were part of the Boy Scout group from Missoula.

Opponents' Testimony:

Jerry Driscoll, representing Russ Ritter, MRL, who was unable to be present, handed out **EXHIBIT(his83a07)**, an informational booklet on the Yucca Mountain Project containing maps and statistics. He pointed to the map page 12, showing the routes proposed for the shipment of nuclear waste. He felt that HJ 36 only talked about nuclear waste, and he assured the committee that the federal government oversaw and had jurisdiction for these DOE shipments.

Some of Hanford's waste was going to Yucca Mountain but not through Montana because that would add thousands of miles to the route.

Informational Testimony:

Pat Keim, BNSF, set up a large map on which he had marked the transport routes from Hanford, WA which was the site being cleaned up. He admitted surprise at hearing truck movements

being included in testimony as well as rail track inspections and specifications, and said his testimony would deal with the rail transport of hazardous materials. He asserted that he had experience with such movements, and regulations and safeguards pertaining to them. He showed how this transport would be routed from Hanford on the map, a copy of which was given to the secretary, **EXHIBIT(his83a08)**, and it was clearly visible that Montana was very much out of the way. He charged that such a transport would move under the auspices of the DOE; they controlled its routing, and part of the criteria was finding the shortest and safest route when it moved by rail. He pointed to the map in Exhibit (7), showing that none of this material would go through Montana, and said that the shortest route actually was a BNSF route to take the cargo westward; the other route would be a UP route, and this route was being studied in the EIS. He reiterated that the criteria were the best maintained tracks as well as the shortest and safest route, and the route through Montana did not fit them. He added that the tracks were maintained to federal specifications under the supervision and inspection of the Federal Railroad Administration and, in addition, these transports would be under the DOE's surveillance and regulation.

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Mr. Keim assured the committee that these types of inspections required specialized equipment, costing \$850,000 per unit or more, and contracting this service would be about \$2,000 per day. His company's policy on this type of movement was single, dedicated trains with inspection and guards running before and following behind the train as well as other types of security required by the federal government which they were not allowed to talk about. BNSF had in the past moved cargo such as this, and without incident. Lastly, he submitted **EXHIBIT(his83a09)**, a BNSF document dealing with nuclear shipments.

Questions from Committee Members and Responses:

VICE CHAIRMAN RIC HOLDEN asked, in looking at the map, if the DOE transport would go south without going through this state, which **Mr. Keim** confirmed.

SEN. JERRY O'NEIL wondered if **Mr. Keim** if he had ever seen nuclear shipments going through Montana. **Mr. Keim** had seen a shipment of a spent nuclear reactor from a nuclear generation facility in South Dakota, about ten years ago, to a storage facility in Hanford, Washington; this kind of transport was moot now, with Hanford shutting down. He had also seen a one-time shipment of nuclear warheads to a navy base in Bangor, Maine.

SEN. O'NEIL asked why they went through Montana. **Mr. Keim** stated

that it was the shortest rail route at the time and the best quality of track.

SEN. DAN HARRINGTON surmised that the bill addressed one thing, but the testimony was about two issues, and he wanted the sponsor's opinion. **REP. BOOKOUT-REINICKE** replied that she had started out with a bill giving the PSC spending authority to bring back the rail inspector; later, she decided to turn it into a study resolution and thought that if there were other related issues, the interim committee should decide what they wanted to study, and she included truck transportation. **SEN. HARRINGTON** wondered if it should not be amended to reflect all that. **REP. BOOKOUT-REINICKE** said she would leave that up to the committee.

SEN. VICKI COCCHIARELLA stated she could think of a host of amendments, being familiar with the spill at Alberton and the claims from the alleged victims, and suggested adding a study for pipelines carrying gasoline as well as having transportation of goods in general studied and reported back to the Legislature; she asked how the sponsor felt about that. **REP. BOOKOUT-REINICKE** felt that would be fine, but she did not want it to dilute the focus on nuclear waste. **SEN. COCCHIARELLA** wanted to be sure the sponsor had no problem with pipelines, and **REP. BOOKOUT-REINICKE** assured her that it was part of transportation.

Closing by Sponsor:

REP. BOOKOUT-REINICKE hoped that the committee would consider **Pat Keim** as an opponent based on his testimony. She stated that if state and local government officials had the information, the public in general would be more comfortable, and that needed to be the goal. The DOE provided grant money for protective clothing for people dealing with hazardous materials, but mainly to larger cities. She read from a study which said, in part, that safety was not listed as the first concern when establishing routes, with availability and minimizing transit time being more important selection factors; that dedicated trains were favored by the rail road industry but not by the DOE which deems them expensive and unnecessary.

EXECUTIVE ACTION ON HJ 36

SEN. HARRINGTON asked if an amendment saying "any hazardous material" would be beneficial. **VICE CHAIRMAN HOLDEN** felt that the title was very specific in what the study resolution tried to achieve, and it spoke to the issue of rail roads and nuclear waste; he did not think it could be amended further.

SEN. O'NEIL questioned whether the state would be better at inspecting the tracks than the BNSF. **VICE CHAIRMAN HOLDEN** was certain that the DOE regulated all aspects of such a transport, and he did not see where this study was needed when materials such as this were not coming through Montana. **SEN. O'NEIL** added that nuclear warheads were transported by truck and their routes were kept a secret. **VICE CHAIRMAN HOLDEN** agreed, saying that the defense department would not want to inform the public, this had be kept under wraps.

SEN. HARRINGTON suggested another amendment, namely to strike "high-level radioactive waste" and insert "any hazardous material", and also add the possibility of transportation by truck.

Motion: **SEN. COCCHIARELLA** moved that **HJ 36 BE ADOPTED.**

Discussion:

SEN. COCCHIARELLA said this was an important resolution, especially if not confined to nuclear waste only, because the public did not get much information on any of these movements. She was not sure if there was enough time to broaden the scope of HJ 36 to include other modes of transportation; as it stood, she felt it was not enough, and she wanted the committee to implement research of this issue. **VICE CHAIRMAN HOLDEN** suggested she bring forth a different bill to achieve this because if HJ 36 was passed, the interim committee would be studying something that was not even applicable to Montana. **SEN. COCCHIARELLA** repeated she made the motion so this could be discussed; her recommendation was that the committee write a letter to the transportation interim committee, requesting they study this; there was no need to pass this resolution. **VICE CHAIRMAN HOLDEN** wondered why she moved the resolution, and **SEN. COCCHIARELLA** stated it was merely for the purpose of discussion and because she wanted to suggest the idea of the letter. **SEN. GERALD PEASE** agreed, saying that **SEN. COCCHIARELLA** merely wanted an agreement of the drafting of the letter.

SEN. O'NEIL suggested amending the bill on page 2, line 20, to add "and if it is determined there is a likelihood that such shipments will travel through Montana, that a study shall ...", with the object being that if it was found it does not apply to Montana, there did not need to be a study.

Substitute Motion/Vote: **SEN. O'NEIL** made a substitute motion **THAT HIS AMENDMENT BE ADOPTED.** Substitute motion carried 9-0.

Vote: Motion TO ADOPT HJ 36 AS AMENDED failed 4-5 with Harrington, Kitzenberg, O'Neil, and Pease voting aye on a roll call vote; SENS. MOHL and DEPRATU voted by proxy.

VICE CHAIRMAN HOLDEN asked for a motion to place the bill on the table. SEN. HARRINGTON felt the committee should follow through with the letter to the interim transportation committee to encompass other hazardous materials and means of transporting them. VICE CHAIRMAN HOLDEN did not think there was enough time to do this. SEN. COCCHIARELLA offered to draft the letter to be circulated on the floor to see if there was any interest. VICE CHAIRMAN HOLDEN did not object to that. SEN. COCCHIARELLA suggested to do this without a motion. VICE CHAIRMAN HOLDEN asked for a motion to table or otherwise dispense of the bill.

Motion/Vote: SEN. PEASE moved that HJ 36 BE TABLED. Motion carried 7-0.

A discussion with regards to the importance of a letter and its contents ensued.

ADJOURNMENT

Adjournment: 2:10 P.M.

SEN. RIC HOLDEN, VICE CHAIRMAN

MARION MOOD, Secretary

RH/MM

EXHIBIT (his83aad)